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Development (1948) Department

MS SERIES.

G.O. No. 5484

Dated 5th November 1948.

[Despatch Abstract.]

Acts and Rules - The Madras Shops and Establishments Acts, 1947 - Rules - thereunder - Confirmed.

GOVERNMENT OF MADRAS

DEVELOPMENT DEPARTMENT

G.O.L No.,5484, 5th November 1948.

Acts and Rules - The Madras Shops and Establishments Act 1947 - Rules thereunder - Confirmed.

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(b) "Form" means a form appended to these rules;

(c) "Government" means the Government of Madras;

(d)"Sections" means a section of the Act;

(e) Words and expression used in the Act and not defined in these rules shall have the meanings assigned to then in the Act.

3. Inquiry by Government before passing orders fixing opening and closing hours of shops - (1) The Government shall make the inquiry under sub-section (2) of section 7 in the manner specified in sub-rules (2) to (4).

(2) Before passing an order under sub-section (1) of section 7, the Government shall give notice of their intention to pass such order. The notice shall be in Form A and shall, unless a copy of the order proposed to be passed is annexed to it, specify the area and the shop or shops or class or classes of shops to which the order shall apply, the hours of opening or the hours of closing or both, which are proposed to be fixed and the days in respect of which such hours are so proposed to be fixed. The notice shall also state the objections and suggestions with respect to such orders, if any, may be sent to the officer mentioned in the notice within one month from the date of publication of such notice in the Fort St. George Gazette.

(3) The notice shall be published in the Fort St. George Gazette.

(4) The Government shall consider all objections and suggestions received under sub-rule (2) before passing any order under sub-section (1) of section 7.

4. Inquiry by Government before passing orders fixing opening and closing hours of establishments other than shops. - The provisions of rule 3 shall mutatis mutandis apply to an inquiry to be made by the Government under sub-section (2) of section 13.

5. Cleanliness. - (1) (a) In every establishment all the inside walls of the rooms and all the ceilings of such rooms (whether such walls or ceilings be plastered or not) and all the passages and staircases shall be lime-washed or colours-washed at intervals of not more than twelve months dating from the time when they were last time-washed or colour-washed and shall be maintained in a clean state.

(b) All beams, rafters, doors, window-frames and other wood-work with the exception of floors shall be either lime-washed or colour-washed at intervals of not more than twelve months datin from the time when they were last lime-washed or colour-washed or shall be painted or varnished at intervals of not more than seven years dating from the time when they were last painted or varnished and shall be maintained in a clean state.

(c) This subrule shall not apply to the following:-

(i) rooms used only for the storage of articles;

(ii) walls or ceiliggs of rooms which are made of galvanised iron, flat tiles asbestos sheets, glazed bricks, glass, slate, bamboo thatch, cement plaster or polished chumam;

(iii) ceilings or rooms in which the lowest part is at least 20 feet from the floor;

(iv) any other establishment or part thereof, in which lime-washing, colour-washing, painting or varnishing is, in the opinion of the Commissioner, of Labour, unnecessary to satisfy the requirements of section 20 in regard to cleanliness.

(2) Rubbish filth or debris shall not be allowed to accumulate or to remain on any part of the establishment for more than 24 hours and shall be disposed of in he manner approved by the Inspector. All filth and other decomposing matter shall be kept covered receptacles.

(3) All drains carrying waste or sullage water or sewage shall be constructed of masonry or other impermeable material and shall be regularly flushed at least twice daily and where possible, connected with some recognized drainage line.

(4) The establishment and the compound surrounding it shall be maintained in a strictly sanitary and clean condition. The floors shall be swept or otherwise cleaned at least once daily, and the ceilings shall be dusted at least once a month.

5) The employer shall enforce the proper use of latrines and urinals and prevent pollution by excreta or urine of the surface of the ground in the vicinity of the latrine or urinal and in the compound of the establishment. The employer shall make suitable arrangements for the regular cleaning and conserving of the latrines and urinals to the satisfaction of the Inspector.

(6) The area around the place where drinking water is distribute to the workers shall be kept clean and properly drained.

6. Ventilation - In every room of an establishment gentilating openings shall be provided in the proportion of five square feet for each worker employed in such room and the opening shall be such as to admit of a continued supply of fresh air:

Provided that, subject to the control of the Commissioner of Labour, the Inspector, may, for reasons to be recorded in writing, relax the conditions of this rule where, in his opinion, this may be done with due regard to the health of the workers employed in any rooms.

7. Precautions against fire - The employer of every establishmen shall adopt such precautions against danger by fire to the life of persons employed therein as are considered adequate by the Inspector.

8. Appeals from orders passed under Chapter V of the Act - The Commissioner of Labour shall be the appellate authority for the purpose of hearing appeals from orders passed by the Inspector under Chapter V of the Act and any such appeal shall be preferred by the employer on whom the order of the Inspector under that Chapter has been served with in thirty days from the date of the service of the order.

9. Appeals under section 41. (1) The commissioner of Labour shall be the appellate authority for the purpose of hearing appeals under sub-section (2) of section 41 and any such appeal shall be preferred by the person employed within thirty days from the date of on and from which his services are dispensed with.

(2) The Procedure to be followed by the Commissioner of Labour when hearing appeals preferred to him under sub-section (2) of section 41 shall be summary. He shall record briefly the evidence adduced before him and then pass orders giving his reasons therefor. The result of the appeal shall be communicated to the parties as soon as possible. Copies of the orders shall also be furnished to the parties if required by them. The copies shall be on stamp papers to be furnished by the parties.

(3) For the purposes of sub-rule (2), one copy stamp paper of the value of three annas shall be used for every 176 words of fractions thereof; when the reverse of the copy stamp paper is written on, adhesive court-fee labels of the value of three annas when the number of words written does not exceed 176, or four annas when the number of words written exceeds 176, shall be affixed at the top right-hand corner of that side.

10. Manner of calculating the ordinary rate of wages. - For the purpose of the Explanation to section 31, ordinary rate of

wages per hour shall be the weekly wages divided by the actual number of working hours in the week or the monthly wages divided by the actual number of working hours in the month, as the case may be.

11. Fines - (1) (a) The Commissioner of Labour shall be the authority competent to approve, under sub-section (1) of section 35, acts and omissions in respect of which fines may be imposed and under sub-section (8) of section 35, the purposes to which the fines realized shall be applied.

(b) Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Commissioner of Labour:-

(i) a list, in English, in duplicate, clearly defining such acts and omissions; and,

(ii) in cases where the employer himself does not intend to b the sole person empowered to impose fines, a list in duplicate, showing those appointments in his establishment the incumbents of which may pass orders imposing fines and the class of establishment on which the incumbent of each such appointment may impose fines.

(c) The Commissioner of Labour may, on receipt of the list prescribed in sub-clause (i) of clause (b) after such inquiry as he considers necessary, pass orders either -

(i) disapproving the list, or

(ii) approving the list either in its original form or as amended by him in which case such list shall be considered to be an approved list;

Provided that no order disapproving or amending any list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing against such order.

(d) The employer shall display at or near the main entrance of the establishment a copy in English, together with a correct translation thereof, in the language of the majority of the persons employed therein, of the list approved under clause (c).

(e) No fine shall be imposed by any person other than an employer or a person holding an appointment named in a list submitted under clause (b).

(2) (a) Any person desiring to impose a fine on a person employed or to make a deduction from his wages for damage or loss shall explain personally to the said person the act or omission, or damage or loss, in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and shall hear his explanation. Th charge in respect of which it is proposed to impose the fine or deduction and the explanation of the persons concerned shall be reduced to writing, the signature of such person being obtained to the latter.

(b) Every person other than the employer imposing a fine or directing the making of a deduction for damage or loss shall at once inform the employer of all particulars so that the register prescribed in sub-rule (3) or sub-rule (4) may be duly completed.

(3) (a) The employer of any establishment in respect of whic he has obtained approval under sub-section (1) of section 35 to a list of acts and omissions in respect of which fines may be imposed, shall maintain a Register of Fines in Form B.

(b) At the beginning of the Register of Fines, the approved

purposes or purposes on which the fines realized are to be expende shall be entered and serially numbered.

(c) When any disbursements are made from the fines realized, diduct entry of the amount so expended shall be made in the Register of Fines. The vouches or receipts in respect of the amoun so expended shall be serially numbered and kept separately, the serial number of each voucher of receipt and the amount to which it relates being noted in the remarks colump of the register,. If more than one purpose has been approved, the entry of the disburseme shall also indicate the purpose for which it is made.

(4) In every establishment in which deductions for damage of loss are made, the employer shall maintain the register required by sub-section (2) of section 37 in Form C.

(5) A Register of Wages shall be maintained every establishme and may be kept in such form as the employer finds convenient but shall include the following particulars:-

(i) the gross wages earned by each person employed for each wage-period;

(ii) the total of all deductions made from those waged;

(iii) the wages actually paid to each person employed for each wage-period.

12. Deductions for brach of contract - (1) No. deduction for branch of contract shall be made from the wages of an employed person who is under the age of fifteen years;

(2) No deduction for breach of contract shall be made from th wages of any employed person unless -

(a) there is provision in writing forming part of the terms of the contract of employment requiring the employee to give notice of the termination of such employment and the period of notice does not exceed either.

(i) fifteen days or the wage-period, whichever is less;

or

(ii) the period of notice which the employer is required to gi of the termination of that employment;

(b) this rule has been displayed in English and in the langua of the majority of the employed persons at or near the main entrance of the establishment and had been so displayed for not less than one month before the commencement of the absence is respect of which the deduction is made; and

(c) a notice has been displayed at or near the main entrance of the establishment giving the names of the persons from whose wage the deduction is proposed to be made, the number of day's wages to be deducted and the condition (if any) on which the deduction will be remitted:

Provided that where the duduction is proposed to be made from all the persons employed in any departments or sections of the establishment, it shall be sufficient in lieu of giving the names of the persons in such departments or sections, to specify the departments or section affected.

(3) No deduction for breach of contract shall exceed the wages of the person employed, for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions, have been specified in the notice displayed under clause (c) of sub-rule (2), no deduction, for breach

of contract shall be made from the wages of any person who has complied with those conditions.

13. Advances - (1) An advance of wages not already earned shal not, without the previous permission of the Inspector of Factories having jurisdiction, exceed an amount equivalent to the wages earned by the employed person during the preceding two calendar months, or if he has not been employed for that period, twice the wages he is likely to earn during the subsequent calendar month.

(2) Any advance may be recovered in instalments by deductions from wages, spread over not more than twelve months;

Provided that this sub-rule shall not apply to the case of an advance made before the commencement of the Act and Particulars relating to which are communicated before the expiry of one month from the date of publication of these rules in the Fort St. George Gazett to the Inspector of Factories having jurisdiction over the establishment.

(3) No instalments by which an advance is repaid shall exceed one-third, or where the wages for any wage-period are not more than twenty rupees, one-fourth, of the wages for any wage- period in respect of which the deduction is made.

(4) The amounts of all advances, whether made before the commencement of the Act or sanctioned after such commencement, and all repayments of such advances, shall be entered in a register in Form D.

14. Provision regarding Inspectors - No person shall be appointed to be an Inspector under the Act, or, having been so appointed shall continue to hold office, who is or becomes directly of indirectly interested in any establishment to which the Act applies, in the area for which he is to be or has been appointed.

15. Manner of examination of premises, etc., by the Inspectors (1) An Inspector making an examination under section 43 shall make su such examination of the premises and of the preseribed registers, records and notices as may appear to him necessary for the purpose of satisfying himself that the provisions of the Act, of these rules ofand any orders passed by the Government under the Act are being properly observed. In particular, he shall satisfy himself -

(i) that the registers, records and notices required to be maintained or exhibited under the Act or these rules are properly maintained or exhibited;

(ii) that the intervals for rest and the holidays required to be granted under the Act are granted and that the limits of hours of work and spread over laid down under the Act are not exceed.

(iii) that the provisions of the Act relating to the payment fo overtime work are duty observed;

(iv) that no child is allowed to work in any establishment to which the Act applies; and

(v) that the provisions of the Act and any order issued by the Government regarding the opening or closing hours are duty observed.

(2) for carrying out such examination, the Inspector may interrogate such persons on the permises as he may deem necessary, p Provided that no such person shall be required under this rule, to answer any question the answer to which might tend to criminate him.

16. Maintenance of registers and records and display of notice - (1) Every employer shall maintain a register of employment

in Form E Provided that where the opening and closing hours are ordinary uniform, the employer may maintain such rigister in Form 'F'.

(2) Notwithstanding anything contained in sub-rule (1) an employer may, instead of maintaining a register as provided in that sub-rule, exhibit in his establishment a notice specifying the daily hours of work and the intervals for rest and meals to be allowed to the persons employed. The notice shall be in Form G and shall be exhibited not later than the closing hour on the Saturday immediately precedding the first week in which the hours of work shall be as specified in such notice. It shall continue to be exhibited so long as the hours of work specified in it are observed.

(3) Where an employer has exhibited the notice referred to in sub-rule (2), he shall keep a record of hours of work in Form H.

(4) Every employer shall exhibit in his establishment a notice in Form J specifying the day of the days of the week on which the persons employed by him shall be given a monday. The notice shall be exhibited before the persons to whom it relates cease work on the Saturday immediately preceding the first week during which it is to have effect.

(5) Every employer shall exhibit in his establishment a notice containing such extracts of the Act and these rules in English and in the language of the majority of the persons employed by him as the Government may direct.

(6) Any notice required to be exhibited under these rules shall be exhibited in such manner that it can be readily seen and read by any person whom it affects and shall be renewed whenv whenver it becomes defaced or otherwise ceases to the be clearly legible.

(7) In any register or record which an employer is require to maintain under these rules, the entries relating to any day shall be made on such day.

(8) The registers, records and notices relating to any calendar year shall be preserved till the end of the next calender year.

(9) Every employer shall maintain a register in Form K for the holidays and leave granted under section 25 to persons employed in his establishment.

(10) Save as otherwise provided in sub-rule (5), all registers, records and notices required to be maintained, exhibited or given under this rule shall be either in English or in the language of the majority of the persons employed in the establishment.

(11) Every employer shall maintain a visit book in which an Inspector visiting the establishment may record his remarks regarding any defects that may come to light at the time of his inspection and shall produce it whenever required to do so /to by any Inspector having jurisdiction.

17. Ascertainment of age by the Inppectors - An Inspector may require an employer to produce an anthentic extracts from the records of any school, village munsif, panchayat or municipality or, in the absence of such extract, at least a certificate which shall be in Form L from a Registered Medical Practitioner whowing the age of any person employed by such employer.

18. Penalty. - Any person who contraveres any of the provisions of these rule shall on conviction be punishable with fine which may extend to fifty rupees.

Fort A.

(See Rules 3 and 4).

Notice is hereby given that the Government of Madras propose to pass or order under such section (1) of section 7/13 of the Madras shops and Establishments Act, 1947, that with effect from no shop commercial or other establishment situated in shall be opened on any day earlier than and/or shall be closed on any day later than.

Any person wishing to make any objection or suggestion with respect to the above order shall send in writing to the commissioner of Labour before th day of 194

Dated this day of 194.

Secretary to Government,
Development Department.

Fort B.

(See Rule 11 (3) (a))

Register of fines.

Establishment.

Serial Number	Name	Fatheris Name of husband's name.	Act or Commission for which fine imposed.	Whether workman should cause against fine or not and if so, date on which cause was shown.	Total wages of, and for the wage period in which fine imposed.	Amount of date on which fine imposed.	Date on which fine realized.	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Form C.

(See Rule 11 (4))

Register of deductions for damage or loss caused to the employer by the neglect of default of employer persons.

Establishment.

Serial Number.	Name	Father's name or husband's name.	Damage or loss caused.	Whether works should cause against deduction or not, and if so, date on which cause was shown.	Amount of and date on which deduction imposed.	Number of instalments, if any.	Date on which total amount realized.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Form D.

(See Rule 13 (4))

Register of advances made to employed persons.

Form D.

(See Rule 13 (4))
Register of advances made to employed persons.

Establishment.

Serial Number.	Name.	Father's name of husband's name.	Amount of and date on which advance made.	Purpose(s) for which advance made	Number of instalments by which advance to be repaid.	Postponements granted.	Date on which total amount repaid.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Form E.

(See Rule 16 (1))
Register of employment.

Month Year Day of month.

Name of person employed.	whether young person or not.	Time at which employment commences.	Time at which employed ceases.	Rest interval	Total hours worked during the month.	Days on which overtime work is done and extend of such overtime on each day.	Extent of overtime worked during the month.
		1 2 3 4 ...31				1 2 3	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	

Note:- The Mark 'H' shall be made in the column relating to any day on which a holiday is given in accordance with the notice referred to in rule 16 (4).

Form F.
(See Rule 16 (1))
Register of employment.

Where opening and closing hours are ordinarily uniform.

(1) Name of person employed	(2) whether young person or not	(3) Time of which employment commences.	(4) Time at which employment ceases.	(5) Rest interval.	(6) Hours worked on 1 2 3 4 5 6 7 8 9 10 ...31.	(7) Total hours worked during the month.	(8) Days on which overtime work is done and extent of such overtime on such occasion 12 ...31.	(9) Extent of over time worked during the month.

Note:- The mark 'H' shall be made in the column relating to any day on which a holiday is given in accordance with the notice referred to in rule16(4)

Form G.
(See Rule 16 (2))
Notice.

Daily periods of work of persons employed commencing 19

Name of employer or establishment.

Form G.
(See Rule 16 (2))
Notice.

Daily periods of work of
persons employed commencing. 19

Name of employer
or establishment.

Description of Department.
(if applicable)

(1) Name of person employed.	(2) whether young person or not	(3) Day. Employment to commences.	Intergals for meals and rest.	Employment to cease.

(Signed.
(Employer)
Date.

NOTE:- (1) This notice must be exhibited not later than the closing hour on the Saturday preceeding the first week in which it is take effect, and must continue to be exhibited while it is in force in such a manner that it may be readily seen and read by any person ~~xx~~ whom it affects.

(2) The hours to be specified in this notice shall be the hours to be worked exclusive of overtime.

(3) The entries under the heading intervals for meals and rest shall be the actual time at which the intervals are to begin and end (e.g. 1 p.m. to -p.

Form H.
(See Rule 16 (3).)
Record of hours of work of persons employed.

(To be used only when Notice in Form G. exhibited.)

Description of Department.
(if applicable)
Month.

(1) Name of Persons employed.	(2) Whether young persons or not	(3) Total hours worked during the month.	(4) Days on which overtime work is done and extent of such overtime on each occasions.	(5) Extent of overtime worked during the month.
			1 2 3 4 5 . . .31	

Note:- Entires relating to any day must be made on that day.

Form J.

(See Rule 16 (4)).
Notice.

Holidays.

The persons employed in this* ‡ Shop
‡ Commercial establishment
‡ Restaurant
‡ Eating house
‡ Theatre etc.,
‡ Other places of public amusement
‡ or entertainment.

Shall be given a holiday on the day named below in the week following the dat of this notice and until further notice.

‡ Names or class of persons employed. Date on which holiday is allowed.

*Striking out the words which are not applicable. Signature of employer.

† If the same day is fixed for all the persons employed, the word all only need be inserted in this column.

Form K.

(See Rule 16 (9))

Register of holidays, leave etc., granted.

Serial Number.	Name of person employed	Father's Name.	Date of application.	Number of days of leave applied for	Reason	Whether granted.	If refused the reasons for refusal.	Nature of leave applied for	Nature of leave granted.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)(

Form L.

(See Rule 17.)

Form of certificate.

I hereby certify that I have personally examined (name). son/daughter of (caste, etc) and that he/she has completed fourteen/seventeen years of age.

Description marks are:

Thumb Impression.

Medical Practitioner.

/True Copy/

Superintendent
Madras Record Office.
6/8